

STATE OF MICHIGAN
IN THE SUPREME COURT

COMPLAINT AGAINST:

HON. JAMES A. SCANDIRITO FORMAL COMPLAINT NO. 62
41-B District Court
Mt. Clemens, Michigan

_____ /

DECISION

At a session of the Michigan Judicial
Tenure Commission held on the 8th day of
November, 1999, at which the following
Commissioners were

PRESENT: Hon. Marianne O. Battani
Hon. William B. Murphy*
F. Philip Colista, Esq.
Hon. Theresa Doss
Hon. Barry M. Grant
Hon. M. Richard Knoblock
Mrs. Joanne McPherson
James Mick Middaugh

The Judicial Tenure Commission of the State of Michigan (“Commission”), with the consent of the Honorable James A. Scandirito (“Respondent”), makes the following findings of fact and conclusions of law:

1) Respondent is and at all material times relative to these proceedings was a judge of the 41-B District Court in Mt. Clemens, Michigan.

* Commissioner Murphy did not participate.

2) On March 22, 1999, the Commission filed Formal Complaint No. 62 against Respondent, charging him with various acts of professional and judicial misconduct.

3) On August 25, 1999, the Commission filed its operative pleading, a Third Amended Complaint.

GRIEVANCE NO. 98-11716
(Adrienne Ruth Sajor)

4) In approximately February of 1998, Adrienne Ruth Sajor appeared before Respondent and pled guilty to an O.U.I.L. charge.

5) Sometime in April, 1998, prior to sentencing, Respondent invited Ms. Sajor to lunch, stating that he wanted to discuss the possibility of Ms. Sajor volunteering to participate in the “SADD program.” Ms. Sajor agreed to meet Respondent the following Saturday at the L-Bow Room at 13 Mile and Gratiot in the Georgian Inn.

6) When Ms. Sajor arrived, Respondent was already seated, consuming alcoholic beverages. Respondent gave her an envelope containing some SADD materials. After some discussion about the SADD program, he initiated a personal discussion with her. Neither Respondent nor Ms. Sajor had lunch.

7) Respondent invited Ms. Sajor to his vehicle, stating that he wanted to show her a newspaper article. She entered the vehicle and began reading the article. While she was so engaged, Respondent pushed her hair off her face, rubbed her leg, and put his hands on her chest.

8) Ms. Sajor objected. Respondent replied, “Oh, you don’t like that,” and asked, “Are you all right?” When Ms. Sajor replied, “I’ll be

okay,” Respondent then asked her, “Why don’t you come over here and give me a kiss?”

9) After Ms. Sajor refused Respondent’s advances, he told her not to tell her attorney that he had met with her and wanted to know if anyone else knew she was there. Ms. Sajor replied that her mother knew. Respondent stated that it must be kept a secret and that “no one must know.”

10) A few days later Ms. Sajor appeared before Respondent for sentencing. After sentencing, Respondent approached her in the courthouse hallway, asked to see her and requested her pager number. Ms. Sajor gave him her pager number and he paged her three or four times.

GRIEVANCE NO. 99-12013
(Jessica F. Russo)

11) Respondent became acquainted with Jessica Russo as a result of frequenting the Total Sports Center where she was employed part-time.

12) On or about February 15, 1995, Ms. Russo was ticketed for speeding and not wearing a seat belt. The charges were filed in the 41-B District Court. She discussed the tickets with Respondent.

13) Shortly thereafter, Respondent advised Ms. Russo that if she paid the fine for failure to wear a seatbelt, he would take care of the speeding ticket for her. Respondent then informed her that she owed him lunch.

14) Subsequently, Respondent advised Ms. Russo that he arranged to have the speeding ticket dismissed.

15) After the ticket was dismissed, Respondent and Ms. Russo went out for lunch to a restaurant then called the Wishing Well, located at the corner of Gratiot and 14 Mile Road.

16) Respondent had recently purchased a new truck and invited Ms. Russo to go for a ride. She agreed. After a short ride down Gratiot, Respondent pulled into a parking lot behind the building now known as the East End Hotel, put his arm around her, and tried to kiss her.

17) Ms. Russo became frightened and pushed Respondent away. He asked her "What's the matter? What's the matter?" When she didn't respond, Respondent asked her if she had a boyfriend and she responded affirmatively. He then returned her to her car.

18) On February 17, 1999, Respondent approached Jessica Russo at a public place, questioned her as to why she was pursuing a grievance against him with the Judicial Tenure Commission, and asked her to think about what she was doing.

GRIEVANCE NO. 99-12014
(Kathryn Ann Yost-Braekevelt)

19) On January 27, 1998, Kathryn Ann Yost-Braekevelt appeared before Respondent and pled guilty to driving with a suspended driver's license, second offense. No jail time was recommended. Respondent delayed sentencing for one year, stating that he might dismiss the charge at that time, and scheduled a review in six months.

20) On July 30, 1998, while her case remained pending, a drunk driver drove onto her front lawn. A police report was prepared by the

Macomb County Sheriff's Department, Case No. 59191, which contained Ms. Yost-Braekevelt's name and telephone number.

21) Respondent arraigned the responsible driver. Within a week after the arraignment, Respondent telephoned Ms. Yost-Braekevelt and asked to view the "crime scene" (*i.e.*, her front lawn), after which he asked her out to lunch the following Saturday at Dominic's Restaurant.

22) On that Saturday, Respondent met Ms. Yost-Braekevelt at Dominic's, located on Jefferson in Harrison Township, Michigan. While there he showed Ms. Yost-Braekevelt a copy of her driving records and strongly implied that he could help her "clear some of this up." After further discussion, they left the restaurant and drove to Gino's Surf Restaurant, also located on Jefferson in Harrison Township, Michigan. Respondent parked the car and began fondling and kissing Ms. Braekevelt. He then asked her if he could have a secret sexual relationship with her.

23) Ms. Yost-Braekevelt, fearful of the consequences if she did not cooperate, agreed. Respondent then left Gino's Surf and returned to her house where he engaged in sexual activity with her.

24) Respondent and Ms. Yost-Braekevelt engaged in sexual intercourse numerous times over a period of two to three months. Ms. Yost-Braekevelt then stopped answering or returning Respondent's telephone calls. Respondent repeatedly telephoned her seeking to continue the relationship.

25) On or about October 17, 1998, Ms. Yost-Braekevelt's home was broken into. The Macomb County Sheriff's Department responded. Deputies listened to four messages from Respondent on the answering machine. Ms. Yost-Braekevelt asked them not to include

information about Respondent in the police report. The following day one of the officers returned to tell her that he had spoken to Respondent and told him to leave her alone. After a respite of approximately two weeks, Respondent began calling her again.

26) The charge against Ms. Yost-Braekevelt was not resolved until January, 1999, by Judge Foster.

GRIEVANCE NO. 99-12110
(Evette Bobiney)

27) Sometime in 1995 or 1996, Evette Bobiney met Respondent at an Alcoholics Anonymous meeting. When he learned that she had a pending O.U.I.L. charge in the 41-B District Court, he approached her and asked if there was anything he could do to help with regard to the charge. Ms. Bobiney declined and told him that she was accepting responsibility for the ticket. (The ticket was assigned to Judge Cannon.)

28) Ms. Bobiney offered to serve as a volunteer and share her experiences with alcohol to educate others. Respondent told her that he wanted to get together with her and talk about her offer.

29) Respondent subsequently contacted Ms. Bobiney and went out with her for lunch a couple of times. Each time, he attempted to get her to go to his car. Ms. Bobiney did not comply and did not let him touch her. Because of Respondent's behavior, Ms. Bobiney refused further lunch dates.

30) Respondent called her as many as 45-50 times in an effort to get her to go out with him again.

31) Ms. Bobiney called Respondent's wife on December 24, 1996 and told his wife she had to stop Respondent from calling her.

32) The calls stopped for about 10 months. In September or October, 1997, Respondent began calling Ms. Bobiney again, asking her to go to lunch with him. At one point, she agreed but did not appear as scheduled. Respondent called and asked her why she didn't show up. Ms. Bobiney told Respondent that he just didn't get the fact that she was not interested in having a personal relationship with him. The calls finally ended in December, 1998.

GRIEVANCE NO. 99-12209
(Sondra D. Gibson)

33) In December, 1993 or January, 1994, Sondra D. Gibson, an African-American woman, then approximately 20 years of age, was arrested for uttering and publishing. She pled guilty in the 41-B District Court and was placed on probation. Sometime thereafter she received a phone message from the Court asking that she call Respondent. She returned the call, assuming it was about her case. Respondent asked her to meet him, stating he didn't have time to discuss the matter on the phone. Ms. Gibson didn't have a car, so Respondent arranged to meet her within her walking distance, in the parking lot of the Comfort Inn in downtown Mt. Clemens.

34) After Ms. Gibson entered Respondent's vehicle, he told her that he had always been attracted to African-American women, that he had been married a long time, and that it was a fantasy of his to be with an African-American woman. Respondent asked her to be his mistress, and offered to provide her with an apartment, a car, cell phone, pager and money. Respondent also told her he would remove the uttering and publishing conviction from her record. He

kissed her and put his hand between her legs. Ms. Gibson told him she would have to think about his offer.

35) Respondent spoke by telephone with Ms. Gibson about three days later and asked her to meet him a second time. When Ms. Gibson met him, again in a parking lot, and entered his vehicle, he kissed her, put his hand on her chest and between her legs, and encouraged her to accept his offer.

36) A couple of days later Respondent again telephoned Ms. Gibson and arranged to meet her a third time in his car. Respondent told her he was glad to see her, and started touching and kissing her. Respondent asked her for oral sex, but she refused. She also told Respondent that she was still undecided about becoming his mistress and needed one more day to decide. Respondent gave her \$20 for necessities on this occasion because she was short of cash.

37) The following day Respondent spoke with Ms. Gibson by phone and thereafter met her for the fourth and final time in the Comfort Inn parking lot. She had just had her hair done. Respondent made a critical comment about her hair. Ms. Gibson's pent-up frustrations spilled out and she told him off, slapped him, and declined his offer, informing him that she didn't want to stoop to his level.

VIOLATIONS

38) Respondent's conduct, as described in paragraphs (4) through (37) above, constitutes:

- A) Misconduct in office, as defined by the Michigan Constitution of 1963, Article VI, § 30, as amended, and MCR 9.205;

- B) Conduct clearly prejudicial to the administration of justice, as defined by the Michigan Constitution of 1963, Article VI, § 30, as amended, and MCR 9.205;
- C) Failure to observe high standards of conduct so that the integrity of the judiciary may be preserved, in violation of the Michigan Code of Judicial Conduct (“MCJC”) Canon 1;
- D) Conduct involving impropriety and the appearance of impropriety that erodes public confidence in the judiciary, contrary to MCJC, Canon 2A;
- E) Failing to respect the law and to conduct oneself at all times in a manner which would enhance the public’s confidence in the integrity and impartiality of the judiciary, as required by MCJC, Canon 2B;
- F) Allowing family, social, or other relationships to influence judicial conduct or judgment, contrary to MCJC, Canon 2C;
- G) Initiating, permitting, or considering *ex parte* communications concerning a pending or impending proceeding, in violation of MCJC, Canon 3A(4); and
- H) Misconduct and grounds for disciplinary action within the meaning of MCR 9.104(1-4), in that such conduct constitutes:
 - 1) conduct prejudicial to the proper administration of justice;
 - 2) conduct that exposes the legal profession or the courts to obloquy, contempt, censure or reproach;

- 3) conduct that is contrary to justice, ethics, honesty or good morals; and
- 4) conduct that violates the standards or rules of professional responsibility adopted by the Supreme Court and MCR 9.205(C).

This matter is continued for a hearing on the issue of sanctions. The hearing will be held on Monday, January 10, 2000, in Room 1100, 211 West Fort Street, Detroit, Michigan.

**STATE OF MICHIGAN
JUDICIAL TENURE COMMISSION**

HON. MARIANNE O. BATTANI

HON. WILLIAM B. MURPHY

HENRY BASKIN, ESQ.

F. PHILIP COLISTA, ESQ.

HON. THERESA DOSS

HON. BARRY M. GRANT

HON. M. RICHARD KNOBLOCK

MRS. JOANNE MCPHERSON

MR. JAMES MICK MIDDAUGH